IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 459 OF 2005

Smt. Revbai G. Ghule & Ors. ..Appellants

versus

Vijaykumar L. Shinde & Ors. ..Respondents

Mr. S. A. Sawant for the Appellants.

Mr. R. N. Sanghavi for the Respondent Nos. 2 and 3.

CORAM : D. G. DESHPANDE,J.

DATE : 15TH SEPTEMBER,2005

ORAL ORDER :

1. Heard Advocate for the Appellants and the Respondent Nos. 2 and 3.

2. Appellants are the original defendants. Plaintiffs purchased the suit property by registered sale deed dated 15.11.1989 and filed a suit in the year 1997 because the defendants were obstructing possession. The suit was decreed and appellate court confirmed the decree. Hence, this Second Appeal.

3. From the submissions made by the counsel for the appellants and the facts on record, both the courts have held that the plaintiffs were bonafide purchaser for valuable consideration, without

notice. The court also held that the plaintiffs are in possession. In the sale deed there is a specific mention. The description of the property is given in the plaint with boundaries. Therefore, there is no confusion of the plaintiffs about the exact property purchased by them.

4. Same dispute is tried to be raised by the counsel for the appellants regarding revenue entries and the right of the plaintiffs vendors, but that is the subject matter of a suit which the defendants appellants can file to prove their title. The suit of the plaintiffs was only for injunction simplicitor and if the plaintiffs as found by both the courts below were in possession of the property, the courts were justified in granting injunction. There is no merit in this case and the appeal is required to be dismissed.

5. It is clarified that dispute about the revenue entries is now, as per the statement of the advocate for the appellants finally concluded in favour of the appellants by the revenue authorities, and, therefore, if on that basis the appellants file any Civil Suit on the basis of the title and possession, observations of both the courts below in this matter regarding the property, will not come in their way.

6. Appeal is dismissed.

15.9.2005 (D.G. DESHPANDE, J.)